

**REMARKS**

Claims 1-2, 5-29 and 36-37 are pending in this application.

Claims 1, 14-15 and 25 have been amended and claim 38 has been added by the present Amendment. Amended claims 1, 14-15 and 25, and new claim 38 do not introduce any new subject matter.

**REJECTION UNDER 35 U.S.C. § 103**

Reconsideration is respectfully requested of the rejection of claims 1-2, 5-29 and 36-37 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Pub. No. 2003/0226148 ("Ferguson") in view of U.S. Patent Application Pub. No. 2002/0149708 ("Nagata"), and U.S. Patent No. 6,724,317 ("Kitano").

Applicant respectfully submits that the cited references, when taken alone or in combination, do not disclose or suggest that the hood includes an opening through which the vehicle seat headrest is inserted into the hood, and the size of the opening is reduced to secure the hood to the headrest, as recited in amended claims 1 and 15.

For example, Applicant's disclosure describes and shows hoods 200-700 including openings 270-770, respectively. The hoods are positioned on the headrests through the opening, and the opening closes at a lower surface of the headrest. Drawstrings 250-750 or elastic may be used to reduce the size of the openings. See, e.g., Applicant's disclosure, Figs. 3, 5, 6A, 7A, 8A and 9 and page 7, lines 11-20.

In contrast to the claimed embodiment, Ferguson discloses straps 16 which are "hooked or otherwise attached to the underside of the seat 11." The straps run from the bottom portion of the cover 12 that is draped over the back of the seat 11. See, e.g., Ferguson, ¶ 0023 and Fig. 1a.

The straps of Ferguson do not anticipate or render obvious the claimed opening that is reduced in size to secure the hood to the headrest. In rejecting claims 14 and 25, the Examiner maintains that the straps anticipate the claimed drawstring. Applicant respectfully disagrees, and maintains that Ferguson does not anticipate or render obvious the drawstring or the opening as claimed.

The straps 16 are anchored to the underside of the seat, and therefore require some mechanism, such as a hook, to attach the straps to the seat underside. However, the opening of the claimed embodiments is not anchored to the seat, and, instead, upon being reduced in size, form fits the hood around a surface of the headrest to secure the hood to the seat. Further, the opening of the claimed embodiment facilitates installation and removal of the hood as compared with the straps of Ferguson. Accordingly, there is no teaching or suggestion in Ferguson to develop the opening of the claimed embodiments.

Moreover, assuming, *arguendo*, that the straps are functionally equivalent to the claimed opening or drawstring, "components which are functionally or mechanically equivalent are not necessarily obvious in view of one another". See, e.g., M.P.E.P. § 2144.06 (citing *In re Scott*, 323 F.2d 1016, 139 USPQ 297 (CCPA 1963) (holding that the use of a light wood or hardened foam resin core of a shaft does not fairly suggest the use of a paper core)). Applicant respectfully submits that the claimed opening, which is reduced in size, is not obvious in view of straps anchored to an underside of a seat.

For at least the above reasons, Applicant maintains that amended claims 1 and 15 are patentable over the cited references.

For at least the reason that claims 2, 5-14 and 36 depend from claim 1, and claims 16-29 and 37 depend from claim 15, claims 2, 5-14, 16-29 and 36-37 are also submitted to be patentable over the cited references.

As such, Applicant requests that the Examiner withdraw the rejection of claims 1, 2, 5-29 and 36-37 under 35 U.S.C. §103(a).

#### **DEPENDENT CLAIMS**

Applicant has not independently addressed the rejections of all the dependent claims because Applicant submits that, in view of the amendments to the claims presented herein and, for at least similar reasons as why the independent claims from which the dependent claims depend are believed allowable as discussed, *supra*, the dependent claims are also allowable. Applicant however, reserves the right to address any individual rejections of the dependent claims should such be necessary or appropriate.

An early and favorable reconsideration is earnestly solicited. If the Examiner has any further questions or comments, the Examiner may telephone Applicant's Attorney to reach a prompt disposition of this application.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Michael F. Morano", is written over a horizontal line.

Michael F. Morano  
Reg. No. 44,952  
Attorney for Applicant

F. CHAU & ASSOCIATES, LLC  
130 Woodbury Road  
Woodbury, NY 11797  
(516) 692-8888